

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JUSTIN KOCH,
Petitioner,

v.

WARDEN, LONDON
CORRECTIONAL INSTITUTION,
Respondent.

Case No. 1:20-cv-377

Cole, J.
Litkovitz, M.J.

**REPORT AND
RECOMMENDATION**

Petitioner, through counsel, has filed an unopposed motion for an order of dismissal of this action pursuant to Fed. R. Civ. P. 41(a).¹ (Doc. 8).

Fed. R. Civ. P. 41(a)(2) provides that “an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” *See also* Rule 12 of the Rules Governing Habeas Corpus Cases under Section 2254 (stating that “[t]he Federal Rules of Civil Procedure, to the extent that they are not inconsistent with any statutory provision or these rules, may be applied to a proceeding under these rules”).

Pursuant to Fed. R. Civ. P. 41(a)(2), petitioner’s unopposed motion to dismiss this action (Doc. 8) should be **GRANTED** and this action should be **DISMISSED**.

IT IS SO RECOMMENDED.

Date: 10/26/2020


Karen L. Litkovitz
United States Magistrate Judge

¹ Petitioner indicates that counsel for respondent has been contacted has no objection to the motion. (*See* Doc. 8 at PageID 443).

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).